

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

DARNELL DUKES,

Plaintiff,

v.

D. FOSTON, *et al.*,

Defendants.

Case No. 12-cv-2180-BAS(BGS)

ORDER:

**(1) APPROVING AND ADOPTING
REPORT AND
RECOMMENDATION IN ITS
ENTIRETY; AND**

**(2) GRANTING DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT**

[ECF Nos. 36, 47]

On September 4, 2012, Plaintiff Darnell Dukes, a state prisoner proceeding *pro se* and *in forma pauperis*, filed a complaint asserting civil-rights violations under 42 U.S.C. § 1983. On December 10, 2014, United States Magistrate Judge Bernard G. Skomal C. Lewis issued a Report and Recommendation (“R&R”), recommending that this Court grant Defendants E. Alvarez, M. Chacon, and D. Gambold’s motion for summary judgment. The time for filing objections to the R&R expired on December 29, 2014. (R&R 9:2–4.) To date, neither party has filed any objections.

1 **I. ANALYSIS**

2 The court reviews *de novo* those portions of the R&R to which objections are
 3 made. 28 U.S.C. § 636(b)(1). It may “accept, reject, or modify, in whole or in part, the
 4 findings or recommendations made by the magistrate judge.” *Id.* But “[t]he statute
 5 makes it clear that the district judge must review the magistrate judge’s findings and
 6 recommendations *de novo if objection is made*, but not otherwise.” *United States v.*
 7 *Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (emphasis in original); *see*
 8 *also Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) (concluding
 9 that where no objections were filed, the district court had no obligation to review the
 10 magistrate judge’s report). “Neither the Constitution nor the statute requires a district
 11 judge to review, *de novo*, findings and recommendations that the parties themselves
 12 accept as correct.” *Reyna-Tapia*, 328 F.3d at 1121. This rule of law is well-established
 13 within the Ninth Circuit and this district. *See Wang v. Masaitis*, 416 F.3d 992, 1000
 14 n.13 (9th Cir. 2005) (“Of course, *de novo* review of a R & R is only required when an
 15 objection is made to the R & R.”); *Nelson v. Giurbino*, 395 F. Supp. 2d 946, 949 (S.D.
 16 Cal. 2005) (Lorenz, J.) (adopting report in its entirety without review because neither
 17 party filed objections to the report despite the opportunity to do so); *see also Nichols*
 18 *v. Logan*, 355 F. Supp. 2d 1155, 1157 (S.D. Cal. 2004) (Benitez, J.).

19 In this case, the deadline for filing objections was on December 29, 2014.
 20 However, 28 days have passed since the deadline lapsed and no objections have been
 21 filed. Neither party has requested additional time to file objections as well.
 22 Consequently, the Court may adopt the R&R on that basis alone. *See Reyna-Tapia*,
 23 328 F.3d at 1121. Nonetheless, having conducted a *de novo* review of the briefing
 24 related to Defendants’ motion for summary judgment and the R&R, the Court
 25 concludes that Judge Skomal’s reasoning is sound and accurate in concluding that
 26 Defendants’ motion for summary judgment should be granted. (*See* R&R 7:1–8:18.)
 27 Therefore, the Court hereby **APPROVES AND ADOPTS IN ITS ENTIRETY** the
 28 R&R. *See* 28 U.S.C. § 636(b)(1).

1 **II. CONCLUSION & ORDER**

2 Having reviewed the R&R and there being no objections, the Court **APPROVES**
3 **AND ADOPTS IN ITS ENTIRETY** the R&R (ECF No. 47), and **GRANTS**
4 Defendants' motion for summary judgment (ECF No. 36). The Clerk of the Court is
5 directed to enter judgment accordingly.

6 **IT IS SO ORDERED.**

7
8 **DATED: January 26, 2015**



Hon. Cynthia Bashant
United States District Judge